

PSJ11 CVS Opp Exh 21

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**To:** Jusko, William R.  
**Sent:** 5/15/2014 5:45:00 PM  
**Subject:** DEA closing audit

DEA investigators Dan Gillen and Andrew Ratcliffe set up our closing meeting for today with Betsy Ferguson. Betsy was here as well as Pam Hinkle.

They cited 5 issues.

1. Failure to keep an accurate biennial inventory. Clonazepam was off on the count that Gary Lamberth and Andrew did. They both counted one short. The mistake was found but they still put it on the report.
2. Failure to report accurate distribution dates for Arcos. There was a discrepancy between the transaction date in WMS and the date recorded in ARCOS. It applies to stores that are picked on Friday, but deliver Sunday/Monday.
3. Failure to maintain proper security. This was the module ceiling they didn't like in the control cage. The pharmacy module is over the CSA cage with a wood deck. We need to put 10 gauge steel on the ceiling. We knew this was coming. It was verbalized by Betsy that we were approved to build the module in 2000 and had at least two inspections since and it was never brought up. Dan Gillen said this was the Dan Gillen era now, but he did apologize several times for the oversight.
4. Failure to report proper inventory balance of items. The root cause inventory adjustments were excluded because they didn't offer enough detail to explain what happened with the drug. Need better documentation. The example he used was if it was crushed, then they would want to see the documentation for how it was disposed of.

All four were considered infractions and they could work with us to remedy them.

#### NUMBER 5.

Failure to maintain an SOM program.

Dan Gillen recited the exact same thing he has been saying since day one. They see a lot of pills going through CVS in small towns and it has to be excessive, yet he has never seen a report cross his desk from CVS about a suspicious order in the three years he has been here.

Betsy did the talking and was very professional and friendly. Dan finally pushed Betsy's button and the gloves came off. Dan said it would either be a Letter of admonishment, a Memorandum of understanding or Agreement, or it could go to a civil offense. He then said he had a call with his boss next Monday or Tuesday to see how they would plan to proceed. Everyone in the room felt the point of the meeting today was to feel us out as to how much we would be willing to defend our position.

Betsy made it very clear that a letter of Admonishment is one thing. Anything other than that and she wanted an opportunity to do a presentation to his boss and her boss about what we do with SOM. Anything more than a letter and we would meet in D.C in the courts just like Walgreens did. Apparently Walgreens took action against the DEA for not properly administering their own SOM regulations... She was very pointed about why the DC's shouldn't see many suspicious orders because of all the preemptive work that is done at the pharmacy, pharmacy ops, interviewing doctors, etc. She threw some facts at him about CVS owning 50% of all prescriptions in the state of Indiana, but our percent of control drug sales is well less than our other chain competitors.

Dan talked specifically about a store in Columbus, IN and she finished his sentences with the doctors that were interviewed, the patients were all local, the clinics were legitimate, and the patients were legitimately in pain. Betsy went on to say the issue is perhaps she would prescribe Tylenol, but the doctor prescribed hydrocodone.

The mood certainly changed and Dan changed the subject. Dan asked, what are you going to do when Hydrocodone goes to a class 2 drug. She said we will not distribute it from the DC's. It will be ordered through Cardinal or McKesson and we are counting the days. He then asked what we would do with the inventory and she told him it would either go to Cardinal, the vendor or be destroyed. He was very glad to hear her response. The same response I gave him and Betsy has given him previously.

Dan said, well the main focus or SOM in their eyes is Hydrocodone. He didn't come right out and say it, but it was picked up by everyone in the room that he was establishing a reason to not escalate this past a letter of admonishment.

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In my opinion, there was no reason to have the meeting today if he is having a meeting with his boss next week. It has been 9 months, what's another week. I'm pretty sure this was a feeling out meeting to see if we were prepared to defend ourselves and Betsy made that crystal clear.

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